GRAZING ADMINISTRATION

Unauthorized Grazing Use



BLM Manual Handbook H-4150-1

Form 1221-2
(June 1969)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

MANUAL TRANSMITTAL SHEET

Release
4-77
Date
7/3/84

Subject H-4150-1-UNAUTHORIZED GRAZING USE

1. Explanation of Material Transmitted: This BLM Manual Handbook provides procedural direction and standards for the prevention and control of unauthorized grazing use on the public lands or other lands under BLM administration based on the provisions of 43 CFR 4150.

2. Reports Required: None.

3. Material Superseded: None.

4. Filing Instructions: File as directed below, immediately following the Manual Section.

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H-4150-1 - UNAUTHORIZED GRAZING USE

.1 Prevention and Detection of Unauthorized Grazing Use. The authorized officer must give priority to preventing and detecting unauthorized grazing use on the public lands. Unauthorized grazing use is a prohibited act under 43 CFR 4140.1 and includes allowing livestock onto or driving livestock across public lands and other lands under BLM administration without permits or leases, or in violation of the terms and conditions of permits of leases. This Handbook also applies to unauthorized grazing use by privately owned or controlled indigenous animals. Illustration 1 shows potential actions, beginning with detection and investigation, which could be steps in handling violations resulting from unauthorized grazing use.

.11 Detection and Field Investigation. Unauthorized grazing use is usually one of three types: grazing or trailing in unauthorized areas, grazing or trailing during unauthorized periods, and grazing or trailing unauthorized livestock. The authorized officer is responsible for detecting unauthorized use and determining the extent of the damages.

A. Determining Unauthorized Livestock Grazing Use. The Initial Report of Unauthorized Use, Form 9230-10 (Illustration 2), may be used to document initial reports of confirmed or suspected unauthorized use. Livestock counts are recorded on the Certificate of Livestock Count, Form 4150-2 (Illustration 3), and Grazing Trespass Report, Form 4150-1 (Illustration 4). When counting livestock, field notes are kept, signed, and filed in their original form.

B. Determining Ownership of Livestock. The ownership of suspected or confirmed unauthorized livestock is determined by identifying brands or other marks on the animals. All livestock over 6 months of age and all weaned livestock must be identified.

C. Determining Location of Livestock. Determine and record the specific location by legal description, if possible, of the suspected or confirmed unauthorized livestock. Pastures, allotments, known landmarks, or section corners must be identified on the Grazing Trespass Report, Form 4150-1.

D. Determining Period of Unauthorized Use. Observation of the suspected or confirmed unauthorized livestock over time may not be required to prove a continuous period of unauthorized use. However, it is highly advisable to conduct periodic counts to determine how long the unauthorized use continues. Each count is documented on a Certificate of Livestock Count, Form 4150-2. If subsequent counts indicate additional livestock above the original number, this information is documented on a Certificate of Livestock Count and on a Grazing Trespass Report, Form 4150-1.

E. Allotment Investigation. Conduct an inspection of the area to determine the cause and intent of unauthorized use and to determine damages to the public land or other Government property. The authorized officer must determine whether it is appropriate to involve the alleged violator in making the inspection.

.2 Notice and Order to Remove.

.21 Determination of Violations. Violations may result from exceeding the number of livestock authorized, allowing livestock to be on the public lands in an area or at a time different from that designated, or failing to comply with specific terms and conditions, such as a special marking or ear tagging requirement. The authorized officer must determine whether a violation is occurring and then terminate any unauthorized grazing use as quickly as possible. The authorized officer should consider the strength of the documentation of the alleged violation, the circumstances under which the violation occurred, testimony of alleged violators, and whether the violation was willful or nonwillful. Consistency in enforcing the terms and conditions of permits or leases and the grazing administration regulations is essential to prevent misunderstanding. If a documented violation has occurred, a Trespass Notice, Form 9230-1 (Illustration 5), is served under 43 CFR 4150.2 and .23 of this Handbook.

.22 Unauthorized Grazing Use Case.

A. Case Number. A case number is obtained by making entry into the Trespass Register, Form 9230-8. (See Illustration 6.)

B. Unauthorized Grazing-Use File. A case file is established and maintained for each unauthorized grazing-use case.

C. Grazing Case File. If the unauthorized grazing use involves a permittee or lessee, the grazing case file must contain a copy of the Trespass Notice, Form 9230-1. The letter closing the case or a summary of all unauthorized use actions may be maintained in the grazing case file.

.23 Issuance of Notice of Unauthorized Use. The Trespass Notice, Form 9230-1, constitutes the notice and order to remove required by 43 CFR 4150.2. The notice sets forth the act or omission constituting the violation and refers to the specific terms, conditions, and provisions of the regulations alleged to have been violated. It orders the alleged violator to cease the unauthorized use and to remove the livestock within a specified time and allows a period of time from receipt of the notice to show that there has been no violation or to make settlement under 43 CFR 4150.3. A copy is sent to any lienholder of record.

A. Owner of Livestock Is Known. If the owner of the unauthorized livestock or the agent is known, the notice is served on the alleged violator or agent (or both) by personal delivery or by certified mail when personal delivery is not feasible. A copy is sent to any lienholder of record. At the time of delivery, the authorized officer must inform the alleged violator of the alleged violations, procedures for settlement, and other pertinent factors. A permittee or lessee owning or controlling, through lease or other arrangement, livestock authorized to graze on the public lands is liable for the amount of settlement due the Government. Personal delivery of the notice is desirable to establish intent and determine when the unauthorized use will terminate. The owner of the livestock or agent may make an on-the-spot offer of settlement to the person delivering the notice. Receipt of the offer must be documented immediately. A remittance may be accepted as an offer of settlement, but the case may be settled only by the authorized officer. Settlement procedures are contained in .32.

B. Owner of Livestock Is Unknown. If neither the owner of the livestock nor his agent is known, the authorized officer may proceed to impound the livestock as directed under .4 of this Handbook and 43 CFR 4150.4.

C. Unauthorized Use Involving Horses or Burros. The authorized officer is responsible for determining if horses or burros are wild free-roaming animals. Appropriate State or local officials may determine the ownership of unauthorized horses or burros that the authorized officer has determined are not wild or free-roaming. In allotments or pastures where there is a likelihood that unauthorized horses or burros may become intermingled with wild and free-roaming horses or burros, a notice alleging unauthorized horse or burro use must specify that the unauthorized animals can be claimed and gathered only in accordance with 43 CFR 4720.

.24 Livestock Removal or Failure to Remove.

A. Livestock Removal. When the unauthorized livestock have been removed by the specified date, the authorized officer determines the amount due the United States in settlement under 43 CFR 4150.3 and .3 below.

B. Failure to Remove Livestock. If the livestock are not removed within the specified time and the alleged violator has not shown the authorized officer to be in error in determination of the unauthorized use, action to impound the unauthorized livestock is taken under 43 CFR 4150.4 and .4 below.

.3 Settlement. Settlement is based on violations that occur on lands under the administrative management of the BLM and withdrawn lands administered by the BLM by agreement. Violators are not authorized to make grazing use on the public lands or other lands administered by BLM until any amount found to be due has been paid. The authorized officer may act under 43 CFR 4160.1-2 to cancel or suspend grazing authorizations or deny approval of applications for grazing use until such amounts have been paid. (See 43 CFR 4150.3(c).)

.31 Determination of Amount Due the United States. A complete record must be kept of all costs which may be recovered by the United States under 43 CFR 4150.3. Violators are liable for damages to the United States for the forage consumed by their unauthorized livestock, for injury to Federal property caused by their unauthorized grazing use, and for expenses incurred in impoundment and disposal, and may be subject to civil penalities or criminal sanction for such unlawful acts. (See 43 CFR 4150.1.)

A. Determination of Amount of Unauthorized Use. The amount of unauthorized livestock grazing use is determined by calculating the AUM's of forage utilized on BLM-administered lands. The amount of public land use may be determined by counting only the livestock found on the public lands or by counting all the livestock in the use area and applying a percentage based on the proportional amount of forage furnished by the public lands. This percentage should reflect as nearly as possible the actual grazing use of the area in which the unauthorized grazing use occurs, considering such things as the locations of water, fences, or topographic barriers within the involved pasture or allotment. Where an exchange-of-use grazing agreement is in effect, the amount of unauthorized use includes only the public lands.

B. Value of Other Damages. The value of damages to the public lands and other property of the United States, as determined by the authorized officer, must be charged.

C. Expenses Incurred by the United States. Settlement includes the expenses incurred by the United States for gathering, impounding, caring for, and disposing of livestock in cases which necessitate impoundment under 43 CFR 4150.4. When such gathering and impoundment costs occur, the authorized officer assesses each violator a proportionate share of the actual costs incurred. (See Manual Section 1372 for billing procedures.)

D. Charges for Claimed Unauthorized Horses and Burros. Unauthorized horses and burros which have been claimed and have been determined to be privately owned under the provisions of 43 CFR 4700 must not be released until the owner has paid a charge for the unauthorized use made. (See 43 CFR 4720.3.) This charge includes the value of forage consumed and may include a pro-rated share of helicopter rental and other associated costs for animals captured in BLM-conducted roundups, as determined appropriate by the authorized officer. (See 43 CFR 4720.2(b) and Manual Section 1372 for billing procedures.)

E. Determination of Nonwillful or Willful Nature of Violation. The authorized officer must determine whether the violation was nonwillful or willful, and in both cases, whether it was repeated.

Nonwillful Violations. This is usually due to circumstances beyond the control of the owner of the unauthorized livestock.

Willful Violations. A willful violation is one which is clearly supported by evidence that the unauthorized use occurred with the full knowledge of the owner of the unauthorized livestock or that the owner clearly failed to take action to prevent the unauthorized grazing use.

Repeated Nonwillful or Willful Violations. If the owner of unauthorized livestock is found to be in violation more than once during a grazing season or there is a clear record of similar violations over time, this constitutes repeated nonwillful or willful violation.

F. Determination of the Amount Due. The authorized officer determines the amount due the United States in settlement for unauthorized grazing use according to the nature of the violation.

Nonwillful Violations. For nonwillful violations, the amount due is the value of forage consumed. This value is the average monthly rate for pasturing livestock on privately owned land (excluding irrigated land) for the 11 Western States as published annually by the Department of Agriculture. (See 43 CFR 4150.3(a)(1).) This rate is furnished annually (about September 1) by the Washington Office. The settlement for repeated nonwillful violations is twice this amount. (See 43 CFR 4150.3(a)(2).)

Willful and/or Repeated Willful Violations. The charge for these violations is three times the value of the forage consumed as determined by the Department of Agriculture. (See 43 CFR 4150.3(a)(3).)

.32 Settlement of Obligations Due the United States.

A. Offer of Settlement. A Billing Notice is issued in accordance with Manual Section 1371 if the unauthorized livestock have been removed and an offer of settlement is made on or before the date specified on the Trespass Notice, Form 9230-1. If the unauthorized livestock have not been removed, the authorized officer may impound them under 43 CFR 4150.4. (See .41 for impoundment procedures.) The authorized officer may also advise the alleged violator of the full amount due, by certified mail, and provide another opportunity to make an offer of settlement. The offer of settlement usually is made on the Settlement of Trespass Obligation Offer, Form 9239-1 (Illustration 7). (See Manual Section 1372 for collection procedures.)

Owner Contends no Violation Occurred.

The owner may demonstrate that no violation has occurred. If such showing is satisfactory to the authorized officer, the case is closed by letter. A copy is placed in the unauthorized grazing-use case file. Another copy is sent to any lienholder of record and any other owners of the base property.

The owner may contend that no violation occurred and refuse to make an offer of settlement. If, after appropriate communications with the owner, the authorized officer is not satisfied with the showing and has evidence of unauthorized grazing use, a proposed decision detailing the amount due in settlement and demanding payment is issued. (See .35 for procedures involving demand for payment.) The authorized officer must ensure that the owner is advised of his/her protest and appeal rights.

Owner Makes Offer of Settlement.

The owner may make an offer of settlement which satisfies all obligations due the United States. The authorized officer accepts the settlement and closes the case by letter with a copy to any lienholder of record and any other owners of the base property. Payment under 43 CFR 4150.3 does not relieve the alleged violator of any civil penalty under 43 CFR 4170 or criminal liability under Federal or State law.

The owner may make an offer of settlement which does not satisfy all obligations due to the United States:

If the original amount due the United States is less than $20,000; the offer constitutes substantial settlement; and further action to collect the amount due is not justified; the authorized officer transmits the offer and recommends acceptance of the offer to the State Director. The State Director, with the concurrence of the Field Solicitor may accept the offer and payment as full settlement and close the case by letter. (See .32C for limitations on settlement authority.)

If the original amount due the United States is more than $20,000 but less than $50,000, the State Director transmits the case file along with his recommendation and that of the Field Solicitor to the Director (220). The Director, with the concurrence of the Solicitor, may accept the offer and payment as full settlement and close the case by letter.

If original amount due the United States is more than $50,000, a compromise settlement can not be made by the Bureau or Department. The offer of settlement, narrative of case facts, case file and a recommendation concerning acceptance of the offer should be transmitted through the State Director to the Director (220) for appropriate action by the Solicitor and the Department of Justice. (See Manual Section 344 DM 3.1)

If the offer does not constitute a satisfactory settlement, the authorized officer issues a proposed decision detailing the amount due and demanding payment. If the owner so indicates on Form 9239-1, the authorized officer accepts the payment as partial settlement and identifies the remaining amount due in the proposed decision. The Department of Justice and General Accounting Office will assist on collectable accounts where actual damages exceed $600.00. (See Manual Section 1372 for collection procedures.)

B. No Offer Of Settlement or Settlement not Reached. When the unauthorized livestock have been removed but satisfactory settlement has not been made, the authorized officer issues a proposed decision detailing the amount due in settlement and demanding payment.

C. Authority to Terminate Collection Action for Unauthorized Grazing Use.

Director.

May terminate collection action and close the file on uncollectable accounts when actual damages are over $2,500.00 but not exceeding $20,000.00 with the concurrence of the Solicitor.

Refers uncollectable accounts exceeding $20,000 to the Department of Justice.

State Director

Consults with Field Solicitor to determine collectibility of the account using criteria in 344 DM 4.1.

May terminate collection action and close the file on uncollectable amounts not in excess of $600.00 without referral to the Field Solicitor. (344 DM 4.1)

May terminate collection action and close the file on uncollectable acounts when the actual damages are not in excess of $2,500.00 with the concurrence of the Field Solicitor. (Manual Section 1375) Where agreement can not be reached with the Field Solicitor, the case is referred to the Director.

Refers uncollectable cases to the Director when actual damages exceed $2,500.

District Manager.

Refers uncollectable debts or compromise offers to the State Director.

Area Manager.

May be delegated authority not to exceed that delegated to the District Manager.

.33 Payment.

A. Payments Made Conditionally or with Restrictive Endorsements.

Conditional Offer. A conditional offer is one in which the payment (check, money order, etc.) or a Settlement of Trespass Obligation Offer, Form 9239-1, states that the unauthorized user believes the liability to be less than the BLM claims and the payment is less than the BLM claim but is offered as "payment in full." A counter offer may also be a conditional offer. If an offer of settlement indicates that payment is being made conditionally, the payment is not deposited. The District Manager may refer the case to the State Director with a recommendation for acceptance, or he may reject the offer and return the payment.

Restrictive Endorsements. A restrictive endorsement is written directly on the check or the stub attached to the check and states that the check (or money order, etc.) is "payment in full." The District Manager may accept the payment or, if it represents less than the Government's claim, handle it as a conditional offer.

B. Depositing Checks. The District Manager may deposit checks, money orders, etc., when the offer and amount are acceptable. Checks may also be deposited which are less than the full amount of the damages, if there are no restrictive endorsements and the violator agrees in writing that the check is not full payment and can be applied to the partial satisfaction of debt due the United States Government.

C. Checks Held Pending a Decision. If the amount of the claim is in dispute, compromise or partial payments must not be deposited until the Solicitor advises that the obligation will not be discharged by cashing the check. (See Manual Section 1375.3.) Whenever a check is held pending a decision regarding accepting an offer, the person who submitted the check must be promptly advised in writing that the check is being withheld from deposit pending review of the proposed settlement offer.

D. Holding Uncashed Checks. Holding an uncashed check involves considerable risk and requires strict accountability. (Refer to Manual Section 1372.) Such checks must be kept in an office safe and handled only by authorized personnel. They must be controlled in the undeposited remittance register.

E. Promissory Notes. Refer to Manual Section 9230.62 for procedures to follow, if a promissory note is offered in settlement.

F. Bonds. Refer to Manual Section 9230.62 for use of bonds for unauthorized use.

.34 Criminal Liability. Settlement under this 43 CFR 4150 does not relieve the alleged violator of any criminal liability under Federal or State law. (See 43 CFR 4150.3(b).)

.35 Demand for Payment.

A. Proposed Decision. If satisfactory settlement has not been made within the time allowed for an offer of settlement, the authorized officer issues a proposed decision on the matter. The proposed decision states the violation and refers to the specific terms and conditions of the permit or lease, or parts of the grazing regulations, which are alleged to have been violated; states the amount due in settlement and demands payment; outlines the penalties which are to be invoked under 43 CFR 4170, if such action is appropriate; and states that no permit or lease will be issued that would allow grazing, until payment is made for the unauthorized grazing use. A copy of the proposed decision is sent to any lienholder of record, if different from the violator. The proposed decision allows 15 days from receipt for settlement.

B. Final Decision. If no response (payment or protest) is received within the 15-day period allowed, the proposed decision becomes a final decision without further notice. (See 43 CFR 4160.3 and H-4160-1, Paragraph .3.) If a protest is received, or if an offer of payment is made which is less than the amount demanded, a final decision is required.

Payment Offered Is Acceptable. If the amount offered in settlement is less than the amount demanded but is acceptable to the State Director and Regional Solicitor as a compromise settlement, a final decision is issued which accepts the payment as full settlement and closes the case. (See .32C for limitations of settlement authority.)

Payment Offered Is not Acceptable, or Protest Is Received. If the amount offered in settlement is not acceptable, or if a protest of the proposed decision is received without an offer of payment, the authorized officer issues a final decision. As appropriate, the proposed decisions may be vacated, modified, or adopted. The decision allows 30 days for settlement as outlined or for appeal. (See 43 CFR 4160.3(c), H-4160-1, Paragraph .3; and see .33A for handling of the money received in partial settlement.)

If the final decision is not appealed, the authorized officer proceeds to invoke any penalties determined appropriate and if payment is not received, refuses to accept applications for grazing use from the violator.

Unless there is an emergency situation and the decision has been placed in full force and effect under 43 CFR 4160, an appeal suspends all actions until resolution of the appeal(s).

During the period of time until an appeal of a final decision is resolved, a violator who is a grazing permittee or lessee must be authorized, upon application for grazing use, to make such use at the level of his active preference, except as it has been constrained by a previous final action of the authorized officer. Any such grazing use authorization should bear a condition that the permit or lease will be canceled or modified in accordance with the decision rendered on the appeal by the Administrative Law Judge. No use of the subject grazing preference is allowed other applicants (e.g., transferees).

C. Action by an Administrative Law Judge. Following the hearing on an appeal of an authorized officer's final decision, the Administrative Law Judge renders a written decision confirming or adjusting the amount due and the extent of the penalties. This decision is subject to appeal to the Interior Board of Land Appeals.

D. Nonpermittees and Nonlessees. Violations committed by nonpermittees and nonlessees are generally the most difficult to process successfully. If the violator fails to make settlement in response to the initial demand, the authorized officer requests legal advice from the Solicitor. If the unauthorized livestock remain on the public lands, they are impounded and disposed of under 43 CFR 4150.4.

.4 Impoundment and Disposal. Unauthorized livestock or privately owned or controlled indigenous animals remaining on the public lands or other lands under BLM's administration after the date of removal specified in the Notice of Unauthorized Use (43 CFR 4150.2) may be impounded and disposed of by the authorized officer. Impoundment is a step that should be taken when significant resource damage may occur, violations have been a problem over a period of time or are particularly flagrant, or the owner of the livestock is unknown. In many cases it is desirable to work with the local law enforcement officials to impound the livestock under State law.

.41 Notice of Intent to Impound Unauthorized Livestock.

A. Owner of Unauthorized Livestock Is Known. If the owner fails to remove the unauthorized livestock by the time specified in the Notice of Unauthorized Use, the livestock may be impounded under 43 CFR 4150.4. The Notice of Intent to Impound Unauthorized Livestock is sent by certified mail or personally delivered to the owner or agent, and a copy is sent to any lienholder of record. The State Director should be consulted prior to initiating impoundment proceedings.

B. Owner of Unauthorized Livestock is Unknown. A reasonable attempt should be made to determine ownership of unauthorized livestock. If the owner is unknown, the authorized officer follows the procedures described in .41A, except that the Notice of Intent to Impound Unauthorized Livestock is published in a local newspaper and posted at the county courthouse and a post office near the public land involved. The Notice of Intent to Impound Unauthorized Livestock remains posted at least until the impoundment takes place.

.42 Impoundment.

A. Impounding Unauthorized Livestock. The unauthorized livestock may be impounded any time after 5 days from the publishing and posting of the Notice of Intent to Impound Unauthorized Livestock. (See 43 CFR 4150.4-2.) The impoundment may be accomplished by BLM employees or under contract. In either case, the authorized officer supervises the impoundment.

B. Holding Facilities. The holding facilities, if practical, should be located on public lands and owned by the Federal Government. If Federal facilities are not available, a formal lease arrangement may be made to use other facilities. The impounded livestock must be provided adequate care and security to prevent their unauthorized removal. Whenever impounded livestock are to be moved, the authorized officer must coordinate with the State brand inspector before the move is initiated.

C. Livestock Identification. Efforts should be made to identify the unknown owners of the impounded livestock. State brand inspectors must be used to determine ownership. If additional livestock are identified, the owner or a representative should be notified and issued a Notice of Unauthorized Use, if appropriate, as quickly as possible.

D. Impoundment Period. Unauthorized livestock may be impounded in the specified allotment without further notice any time within the 12-month period following the effective date of the Notice of Intent to Impound Unauthorized Livestock.

E. Care of Impounded Animals. The Federal Government accepts responsibility for impounded animals unless the action is taken by local law enforcement officials under State law.

.43 Notice of Public Sale.

A. Impounded Livestock to be Sold by the BLM. Prior to the sale of impounded livestock, close coordination with the State brand inspector is required to ensure that the buyer will be permitted to move the livestock from the sale site. The authorized officer publishes a Notice of Sale in a local newspaper and posts the notice at the county courthouse and at a post office near the land involved. (See 43 CFR 4150.4-3.) Any known owners or agents, or both, and lienholders of record are notified of the sale in writing by personal delivery or by certified mail.

B. Impounded Livestock Turned Over to the State for Disposal. Impounded livestock may be turned over to the State for disposal if the State has estray or similar laws which permit disposal of such livestock, and an agreement exists which allows the BLM to recover damages and costs incurred. (See 43 CFR 4150.3.)

.44 Redemption. Any owner, owner's agent, or lienholder of record of the impounded livestock may redeem them prior to the time of sale. Ownership or lienholder interest must be proved, satisfactory settlement on any unauthorized use violation must be made, and impoundment costs and any administrative costs due must be settled. If livestock have been turned over to the State, the owner must satisfy State requirements to redeem the livestock.

.45 Sale.

A. Sale Conducted by the BLM. If the livestock are not redeemed on or before the date and time stated on the Notice of Sale, a minimum price may be set prior to the sale. In setting the minimum price, the authorized officer strives to cover the amount due the BLM under 43 CFR 4150.3. If the minimum price is not reached, a lower bid may be accepted, the livestock may be reoffered for sale, or the livestock may be condemned and destroyed in the most humane manner possible in accordance with State law. (See 43 CFR 4150.4-5.)

B. Livestock Sold at Public Sale Yard. The impounded livestock may be sold through the nearest public sale yard. The bid received may be accepted as being the current market value for those livestock. If bids received are not satisfactory, the livestock may be reoffered for sale or condemned and destroyed in the most humane manner possible.

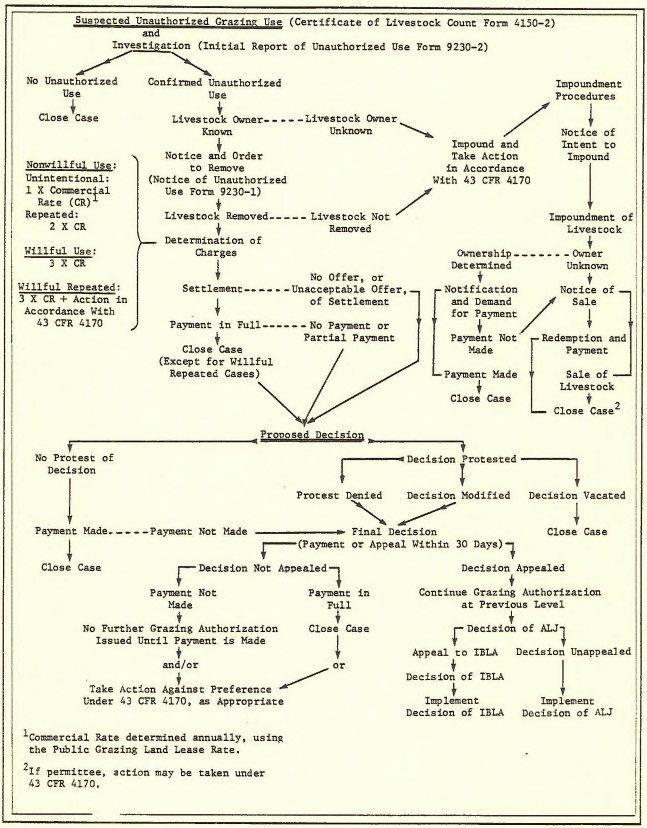
C. Livestock Sold by the State. If a suitable agreement is in effect with the State, the livestock may be turned over to the State for sale or disposal under the State law. If the livestock are sold by the State, BLM must be reimbursed for the amount due under 43 CFR 4150.3, up to the amount received for sale of the livestock.

D. Payments. Refer to Manual Section 1372 for procedures on receipts and deposits of payments.

E. Bill of Sale. The authorized officer must provide the purchaser with a bill of sale for all livestock sold under his/her authority. If the livestock are sold by the State, a bill of sale is provided in accordance with State law.

H-4150-1 - UNAUTHORIZED GRAZING USE

Potential Actions Involved with Unauthorized Grazing Use



[1]Commercial Rate determined annually, using the Public Grazing Land Lease Rate.

[2]If permittee, action may be taken under 43 CFR 4170.

H-4150-1 - UNAUTHORIZED GRAZING USE

Initial Report of Unauthorized Use

Form 9230-10
(May 1981)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

INITIAL REPORT OF UNAUTHORIZED USE

Number: 415
State: Nevada
District: Ely
Date: 3/23/83

1. Name of person reporting violation *: Dick Green
Address (include zip code): Box 4116 Salt Lake City, Utah

2. Occupation and title: Range Technician

3. DATE
a. Reported (month, day, year):
b. Discovered (month, day, year): 3/23/83

4. Type of unauthorized use: Grazing

5. LOCATION

Section	Township	Range	Subdivision
6	21N.	7E	NE1/4 NE1/4

Meridian: Salt Lake | County: Rich | State: Utah

6. How was the unauthorized use discovered? While conducting utilization studies in the allotment.

7. What does unauthorized use appear to be? (Check one)
☐ Criminal ☑ Civil in nature

8. What is the recommendation? (Check one)
☐ Report immediately to BLM Special Agent ☑ Investigate further

Name of reporting officer: Dick Green
Title: Range Technician

Comments and recommendations (include name and address of suspected unauthorized user, if known)
Unable to determine ownership of cattle - no brands were seen.

Dick Green
(Signature of Reporting Officer)

* Informant's name must be held confidential at his request

GPO 821 - 195

H-4150-1 - UNAUTHORIZED GRAZING USE

Certificate of Livestock Use

Form 4150-2
(January 1980)
(formerly 4113—1)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

CERTIFICATE OF LIVESTOCK COUNT

State UT
Office VER
Grazing Record No. 4328
Date 7/19/82

1. Name of Operator: Sam J. Bilke and Sons, Inc.

Address (include zip code): Rural Route 1, Box 37, Vernal, Utah 84078

2. Describe lands on which livestock are counted

Cow Creek Allotment - North Pasture

3. Class of livestock counted

SHEEP		CATTLE	
Yearlings		Calves over 6 mo.	22
Ewes		Cows	187
Rams		Bulls	6
Other		Other	
TOTAL SHEEP		TOTAL CATTLE	225
Horses	2	Goats	

4. AUs counted: 227

5. Brands of operator: TK - on the right ribs

Remarks: This count was made by 2 BLM range conservationists on horseback. The weather was clear and sunny and the cattle were scattered over the entire pasture - good distribution. The 2 horses were in the northwest corner of the pasture

CONCURRENCE:

Time: Between 8:00 and 11:00 ☒ a.m. ☐ p.m.

Counted by: Jimmy Snowball (Signature)

Sam J. Bilke (Signature of Operator or Representative)

Range Conservationist (Title)

GPO 854-232

H-4150-1 - UNAUTHORIZED GRAZING USE

Grazing Trespass Report

Form 4150-1
(January 1980)
(formerly 9230-11)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

GRAZING TRESPASS REPORT

State ID
Office 034
Grazing Record No. . . 3841
Date of Report 9/16/83

1. Name of alleged trespasser: John L. Reading
Address (include zip code): Rural Rt. 5, Box 43, Idaho Falls, Id. 83401

2. The alleged trespass was committed on ☐ Public lands not subject to grazing authorizations ☒ Public lands subject to grazing authorizations ☐ Other land administered by the Bureau

3. For land description see Notice of Trespass dated 9/16/83

4. How was the land identified?
USGS Topo for Leonard Pt. Quad
Aerial photos
Section Corner at SE Corner of Section 10

5. How long has the alleged trespasser been an operator in the area? 16 yrs

6. The alleged trespasser is a ☒ permittee ☐ lessee ☐ non-permittee, non-lessee

7. Is there a previous record of trespass? ☒ Yes ☐ No (If "yes," list)
1972 5 Aums - settled as nonwillful
1976 20 Aums - settled as nonwillful

8. Have any previous warnings been given the alleged trespasser? ☒ Yes ☐ No

9a. Was trespass reported? ☒ Yes ☐ No
b. Was trespass discovered by a Bureau officer? ☒ Yes ☐ No

10a. Were the trespass livestock counted? ☒ Yes ☐ No
b. Were the brands identified? ☒ Yes ☐ No

11. How was ownership of livestock determined?
Recorded brands

12a. List numbers and kinds of animals that can be proven in trespass
24 cows with calves
6 yearlings
2 bulls

b. See Certificate of Livestock Count dated 9/16/83

13a. Did the livestock drift into the area? ☐ Yes ☒ No

b. Were the livestock driven into the area? ☒ Yes ☐ No Assumed they were driven

14a. Was area closed to grazing? ☐ Yes ☒ No
b. DATES FOR GRAZING: Opening 7/16/83 Closing 9/10/83

15. Are the boundaries of the allotment or unit marked? ☒ Yes ☐ No

H-4150-1 - UNAUTHORIZED GRAZING USE

Grazing Trespass Report

16. If unit was fenced, were the gates open? ☐ Yes ☒ No

17. Did alleged trespasser have reason to know the lands trespassed upon were the property of the United States? ☒ Yes ☐ No Is a long-time operator in the area

18. Facts that might indicate whether the trespass was committed innocently or willfully *(explain)*

The operator has a permit for 60 cattle, 7/16 to 9/10, in an individual allotment. On 9/15 Brent Phillips, Range Con., called Mr. Reading and told him there were about 30 cattle left in the allotment. Mr. Reading said he would get them the next day. There are no indications any action was taken to remove the livestock.

19. Names and addresses of witnesses to the trespass *(state briefly the testimony to be expected from each)*

Brent Phillips, BLM, Range Con. - counted and identified by brand 16 cows with calves and 1 bull in section 10

Tod Lewis, BLM, Range Con. - counted and identified by brand 8 cows with calves, 6 yearlings, and 1 bull in section 14

20. The value of damages suffered by the United States *(include value of forage consumed, and other damages if any)*

non-willful - 32 cattle 9/11 to 9/15 = 5.3 AUM's (rounded up) 6 AUM's X $7.54
= $45.24

willful - 32 cattle 9/16 to 9/18 = 3.2 AUM's (rounded up) 4 AUM's X 15.08
= $60.32

21a. Has alleged trespasser offered a "Settlement of Trespass Obligation Offer" (Form 9239-1)? ☐ Yes ☒ No

b. Do you recommend acceptance of payment? ☐ Yes ☐ No

c. Reasons for recommendation

RECOMMENDED ACTION

☒ Settlement ☐ Criminal Action ☐ Disciplinary Action ☐ Removal ☐ Civil Action

Signature of Examining Officer	Title
Brent P. Phillips	Range Conservationist

GPO 854 - 230

H-4150-1 - UNAUTHORIZED GRAZING USE

Trespass Notice

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

TRESPASS NOTICE

Number	762
State	Idaho
District	Idaho Falls
Date	9/18/83

Mr. John R. Reading
Rural Route 5, Box 43
Idaho Falls, Idaho 83401

YOU ARE HEREBY NOTIFIED That the Bureau of Land Management has made an investigation and evidence tends to show that you are in trespass. We allege that you [X] are violating [] may have violated [] have violated the law(s) specified below and the regulation(s) approved by the Secretary of the Interior pursuant to the authority vested in him by said law. Therefore, it is our opinion that you:

Have committed the following act(s): Grazing 32 cattle on public lands without an authorization.

Are in violation of the following law(s): Taylor Grazing Act of 1934, as amended, 43 USC 315
Federal Land Policy and Management Act, as amended, 43 USC 1752.

And are in violation of the following regulation(s): 43 CFR 4140.1(b)(1) which prohibits grazing livestock on the public lands without a permit or lease or in violation of the terms and conditions of a permit or lease.

On the following-described land *(describe the area by legal subdivision if surveyed, or if unsurveyed, by concise reference to such natural landmarks as will clearly identify the area)*:

Sections 10 and 14, T. 19 N., R. 34 E. in the North Hill Pasture of the Leonard Peak Allotment.

Form 9230-1 (November 1976)

H-4150-1 - UNAUTHORIZED GRAZING USE

Trespass Notice

1. ☐ Violations, if continuing, *must* stop immediately.

2. ☒ You are allowed 3 days from receipt of this notice to cease the alleged trespass operation.

3. ☒ If you have evidence or information which tends to show you are not a trespasser as we have alleged, you are allowed 5 days from receipt of this notice to present such evidence or information at the Bureau of Land Management office shown on the front of this form.

If allegations we have made are correct, you must permanently cease and desist from the violations charged, if you have not already done so. You are allowed 5 days from receipt of this notice to appear at the Bureau of Land Management office shown on the front of this form to effect a settlement for trespass damages.

Failure to comply with this notice will result in further action to protect the interests of the United States. You are further advised that no sale of timber or material can be made, and no permit, lease, or license can be issued to a trespasser who has failed to make satisfactory arrangements to satisfy his liability to the United States, as provided in 43 CFR 9239.0-9, 9239.3-2, and 4113.1.

John D Praeger — Area Manager
(Signature) (Title)

CERTIFICATE OF SERVICE

I,

CERTIFY That on the day of , 19 , I served written notice

or

of

the party's address of record, by a true copy of the within notice by ☐ personal service ☐ certified mail. If by certified mail, the envelope containing said notice bears registry stamp number and return receipt marked "for addressee only" has been requested.

(Signature of Server)

(Title)

GPO 842-180

Form 9230-8
(May 1964)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

TRESPASS REGISTER

District: Idaho Falls

Page Number: 29

TRESPASS			LOCATION			ACTION DATES			CLOSURE DATES			
YEAR	NUMBER	NAME OF TRESPASSER (If Known)	SECTION	TOWNSHIP	RANGE	REPORTED	VERIFIED	CONFIRMED	NO TRESPASS	TRESPASSER UNKNOWN	UNCOLLECTIBLE	COLLECTION
(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)	(j)	(k)	(l)	(m)
3	760	Paul Talbot	5	16N.	30E.	8/19/83	8/20/83					8/26/83
5	761	unknown	18	23N.	26E.	9/2/83						
3	762	John R. Reading	10 14	19N.	34E.		9/16/83					

Trespass Register

Illustration 6, Page 1
Form 9230-8
(.22k)

H-4150-1 - UNAUTHORIZED GRAZING USE

Trespass Register

GENERAL INSTRUCTIONS

Enter each suspected trespass, verified or not, on this form as soon as possible after Initial Report of Trespass (Form 9230-10) is received in the district office.

SPECIFIC INSTRUCTIONS

Column

(a) To code *types* of trespasses, use only *one* of the following numbers:

1 Agriculture	6 Right-of-Way
2 Fire	7 Timber
3 Grazing	8 Unlawful Enclosure
4 Minerals & Materials	9 Water
5 Occupancy	0 Other

See *instructions* for examples of types of trespasses on Triannual Trespass Report (Form 9230-17).

(b) Assign three digit numbers consecutively beginning with *001* as cases are entered on this form.

(c) If name is not known at time of initial entry, make entry when name is learned.

ACTION DATES

(g) The date the trespass is reported is usually indicated on Initial Report of Trespass (Form 9230-10) but may also be on other documents or letters.

(h) Enter date as soon as an investigation shows an unauthorized use exists.

(i) Enter date *first* demand letter is sent.

CLOSURE DATES

When a case is closed, enter date in appropriate column. *Cross out entry with a single horizontal red pencil line across the page.*

(j) If investigation reveals no unauthorized use, enter date.

(k) If investigation verifies an unauthorized use, but liability cannot be established, enter date.

(l) If a case is closed by the State Director or is referred to the Director for closure, as an uncollectible account, enter date.

(m) If trespass is closed after collection is made, enter date.

GPO 880-105

H-4150-1 - UNAUTHORIZED GRAZING USE

Settlement of Trespass Obligation Offer

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

SETTLEMENT OF TRESPASS OBLIGATION OFFER

INSTRUCTIONS
1. Prepare in *duplicate*.
2. District office authorized officer completes "A" when payment is offered.
3. Offeror completes "B," "C," and "D" with tender of payment to authorized officer.
4. Authorized officer gives original to offeror with copy to trespass file.

A. ☒ I ☐ We have been advised that

1. A trespass existed on the following-described lands controlled by the Bureau of Land Management

Sections 10 and 14, T. 19N, R. 34E. in the North Hill Pasture of the Leonard Pk. Allotment

2. Said trespass consisted of

grazing 32 cattle from 9/11/83 to 9/20/83 without an authorization

3. Charges and damages due the United States (single basis) caused by said trespass have been ☒ determined ☐ estimated to be $ 135.72 based on the following computations

non-willful 32 cattle 9/11 to 9/15 = 5.3 AUM's
5.3AUM's rounded up to 6 X $7.54 per AUM = $45.24

willful 32 cattle 9/16 to 9/20 = 5.3 AUM's =
5.3 AUM's rounded up to 6 X $15.08 per AUM = $90.48

Total 135.72

4. The Bureau of Land Management considers ☒ me ☐ us on the basis of present information, to be liable to the United States in the amount of $ 135.72 due to said trespass.

B. Tender herewith *(check one)*

1. ☐ cash ☒ check ☐ money order made payable to the Bureau of Land Management in the amount of $ 135.72 in full satisfaction of said obligation.
2. ☐ cash ☐ check ☐ money order made payable to the Bureau of Land Management in the amount of $ as an initial payment on said obligation; the remaining $ to be paid in installments of $ per payable on or before *(date)* starting *(date)*
3. ☐ I ☐ We will complete a promissory note covering payment of the remaining $ as indicated above. Acceptance of the tendered note by the United States *will not constitute a release, satisfaction, or discharge of trespass obligation until note shall have been paid in full.*

Form 9239-1 (July 1972)

H-4150-1 - UNAUTHORIZED GRAZING USE

Settlement of Trespass Obligation Offer

C. Attached payments may be deposited for collection and money held until a final determination of acceptability is made by the United States.

1. ☒ I ☐ We ☐ do ☐ do not agree that in the event this offer of settlement is not accepted, this payment may be applied on the total indebtedness.

D. ☒ I ☐ We offer the following explanation of circumstances which resulted in the above trespass *(attach additional pages, if necessary)*:

After Mr. Phillips called me on 9/15/83 I attempted to get my neighbors to help me round up the cattle that were left on the allotment. Since they were all busy, I had to wait until the 20th.

☒ I ☐ We CERTIFY That the statements made in this offer of settlement are true, complete, and correct to the best of ☒ my ☐ our knowledge and belief, and are made in good faith.

John R. Reading
(Name)

9/23/83
(Date)

By _____

Title 18, U.S.C. Section 1001, makes it a crime for any person knowingly and willfully to make to any department or agency of the United States any false, fictitious, or fraudulent statements or representations as to any matter within its jurisdiction.

GPO 843 • 100